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7 | Special Counsel to Richard A. Marshack, Chapter 11 Trustee

**UNITED STATES BANKRUPTCY COURT**

**CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION**

12 In re: Case No. 8:23-bk-10571-SC  
13 THE LITIGATION PRACTICE GROUP Chapter 11  
14 P.C.,  
15 Debtor.  
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23 **SUPPLEMENTAL DECLARATION OF**  
**RICHARD A. MARSHACK IN SUPPORT**  
**OF MOTION FOR ORDER APPROVING**  
**STIPULATION RE AVOIDANCE AND**  
**RECOVERY OF AVOIDABLE**  
**TRANSFERS TO DEFENDANT PHOENIX**  
**LAW, PC AND TURNOVER OF ALL**  
**RELATED PROPERTY TO THE**  
**TRUSTEE AND ORDER OF DISMISSAL**  
**WITHOUT PREJUDICE OF**  
**DEFENDANTS WILLIAM TAYLOR**  
**CARSS AND MARIA EEYA TAN;**  
Date: July 21, 2023  
Time: 10:00 a.m.  
Judge: Hon. Scott C. Clarkson  
Place: Courtroom 5C  
411 West Fourth Street  
Santa Ana, CA 92701

1                   **SUPPLEMENTAL DECLARATION OF RICHARD A. MARSHACK**

2 I, RICHARD A. MARSHACK, declare:

3       1. I am the Chapter 11 Trustee (“Trustee”) for the bankruptcy estate (“Estate”) of The  
4 Litigation Practice Group, P.C. (“Debtor”) in the above-captioned bankruptcy case (“Case”). As  
5 such, except as expressly stated otherwise, I have personal knowledge of the facts set forth below  
6 and could and would competently testify under oath if requested to do so.

7       2. I submit this Supplemental Declaration in support of my *Motion for Order*  
8 *Approving Stipulation re Avoidance and Recovery of Avoidable Transfers to Defendant Phoenix*  
9 *Law, PC and Turnover of All Related Property to the Trustee and Order of Dismissal Without*  
10 *Prejudice of Defendants William Taylor Carss and Maria Eeya Tan (“Motion”)*. At the initial  
11 hearing on the Motion on July 11, 2023, the Court continued the matter and requested that further  
12 evidence be filed in support of certain issues. All capitalized terms are defined in the Motion.

13       3. Following entry of the preliminary injunction, my counsel discussed the adversary  
14 proceeding and its claims with Defendants: Phoenix, Mr. Carss, and Ms. Tan. All parties wanted  
15 to resolve the dispute as quickly as possible and in a manner that protected the individual clients  
16 whose Files were transferred.

17       4. In my amended complaint in the Adversary Proceeding, I seek the avoidance and  
18 recovery of approximately 40,000 client files transferred to Phoenix. Mr. Carss and Ms. Tan were  
19 also named as parties in the Adversary Proceeding with respect to the claims for injunctive relief.

20       5. The proposed Stipulation results in me obtaining a court order avoiding all transfers  
21 to Phoenix. Specifically, the Stipulation provides in ¶ 1 that “The transfers of the Files and all  
22 material and property related thereto including, but not limited to, payments, communications, and  
23 documents (“Transfers”) to Phoenix was fraudulent and Trustee is entitled to Judgment avoiding,  
24 recovering, and preserving the Transfers.” As such, I am not receiving less under the Stipulation  
25 than I could obtain by litigating the matter through judgment.

26       6. The proposed Stipulation further provides that “Phoenix, Mr. Carss, and Ms. Tan  
27 shall turn over to Trustee all Transfers including the Files and funds collected from clients pursuant  
28 to legal service agreements entered between clients and Debtor and shall fully cooperate with

1 Trustee's efforts to recover and administer the Transfers including the Files and all related  
2 materials." Again, I'm not receiving anything less under the Stipulation than I could obtain by  
3 litigating the matter through Judgment.

4       7. Furthermore, Phoenix acknowledges that it bears all liability for the Files that arose  
5 or came into existence following their transfer to Phoenix until ownership of such files is transferred  
6 to any third-party purchaser approved by the Court. This provision protects the consumers in the  
7 event they were not properly represented by Phoenix.

8       8. Lastly, the Stipulation provides that Mr. Carss and Ms. Tan are being dismissed  
9 without prejudice. Because the dismissal is without prejudice, the Estate reserves all rights to re-  
10 file any action should I determine it is in the best interest of creditors to do so. But, because all  
11 transfers are being avoided and recovered by the Estate, I am presently unsure whether there will  
12 be any claims that would remain in existence after the transfers are avoided.

13      9. In approving a proposed compromise, the Court should consider four factors: (a) the  
14 probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of  
15 collection; (c) the complexity of the litigation involved and the expense, inconvenience, and delay  
16 attending it; and (d) the paramount interest of the creditors and a proper deference to their  
17 reasonable views.

18      10. With regard to the probability of success, the Stipulation provides the estate with  
19 full recovery of all property transferred. As such, this factor supports approval of the compromise  
20 because the best possible result is being obtained without the expense, delay, and uncertainty of  
21 continued litigation.

22      11. With regard to the difficulties of collection, this factor may not apply because  
23 Phoenix is returning all property transferred. But, in the absence of this agreement, continued  
24 prosecution of the lawsuit may result in the Estate collecting less because funds will continue to be  
25 lost through ongoing operations and costs of litigation. Furthermore, the compromise expedites the  
26 Estate's ability to sell the Files to any provider of legal services approved by the Court.

27      12. With regard to the complexity of litigation and the expense, inconvenience, and  
28 delay, this factor strongly supports approval of the compromise. Debtor transferred tens of

1 thousands of files to Phoenix. Avoiding all of these transfers through litigation would be very time-  
2 consuming and expensive. The Stipulation achieves a best case result for the Estate and avoids  
3 unnecessarily administrative costs to obtain such a result.

4        13. With regard to the paramount interests of creditors, this factor supports approval of  
5 the compromise. Unless I avoid the subject transfers and obtain court approval for their sale, there  
6 will be no assets in this case with the exception of potential avoidance claims. Thus, my best chance  
7 of providing distributions to creditors is having this stipulation approved and the separately-  
8 proposed sale granted.

9        14. I believe the relief sought in the Motion is in the best interests of the Estate and its  
10 creditors as it will permit a sale of the Files along with other assets of the Debtor to a third party  
11 that can handle the Files in compliance with applicable law. Debtor's clients contracted with Debtor  
12 to obtain representation with regard to their consumer debts. This stipulation and the proposed sale  
13 provides clients with such representation and the option to opt-out of the sale should they no longer  
14 desire such services.

15 I declare under penalty of perjury under the laws of the United States of America that the  
16 foregoing is true and correct.

17  
18 DATED: July 17, 2023

Richard A. Marshack

Richard A. Marshack

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

Dinsmore & Shohl LLP  
550 S. Hope Street, Suite 1765  
Los Angeles, California 90071

A true and correct copy of the foregoing document entitled (specify): *Supplemental Declaration of Richard A. Marshack in Support of Motion for Order Approving Stipulation re Avoidance and Recovery of Avoidable Transfers to Defendant Phoenix Law, PC and Turnover of All Related Property to the Trustee And Order of Dismissal Without Prejudice of Defendants William Taylor Carss and Maria Eeya Tan*; will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On July 17, 2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On (date) July 17, 2023, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL**

(state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on July 17, 2023, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

7/17/2023

Jonathan Serrano

/s/ Jonathan Serrano

Date

Printed Name

Signature

**In re The Litigation Practice Group, P.C.  
U.S.B.C., Central District of California, Santa Ana  
Case No. 8:23-bk-105701-SC**

## I. SERVED ELECTRONICALLY VIA NEF:

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1       **II. SERVED VIA REGULAR U.S. MAIL:**

2              N/A

3       **III. SERVED VIA OVERNIGHT MAIL (FED EX):**

4              **United States Bankruptcy Court**

5              Honorable Scott Clarkson  
6              United States Bankruptcy Court  
7              Central District of California  
8              411 West Fourth Street, Suite 5130 / Courtroom 5C  
9              Santa Ana, California 92701

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